

SHARON HULIHAN, ) 2:09-cv-01096-ECR-RJJ  
)  
Plaintiff, )  
)  
vs. ) Order  
)  
THE REGIONAL TRANSPORTATION )  
COMMISSION OF SOUTHERN NEVADA, a )  
Public Entity under State and )  
Federal Statutes and LAIDLAW )  
TRANSIT SERVICES, INC., a Foreign )  
Corporation; and FIRST TRANSIT, )  
INC., a Foreign Corporation; and )  
DOES 1-100, inclusive, )  
)  
Defendants. )  
)  
)

On May 3, 2011, Plaintiff filed a motion (#78) for the Judge to retroactively order a document that had apparently been lost in the mail to be filed nunc pro tunc judgment ("Motion to Retroactively File Document"). In this motion, Plaintiff requested that this Court enter into evidence her previous Motion to Enter Evidence and the documents attached thereto on the belief that such documents had been lost in the mail. (#78) On May 16, 2011, Plaintiff filed a

1 motion (#80) for Magistrate Judge to Reconsider regarding the  
2 admissibility of evidence. The motion (#78) is ripe, and we now  
3 rule on it.

4 In fact, the Court did not fail to enter these documents into  
5 evidence because they were lost in the mail. Rather, Magistrate  
6 Judge Johnston previously denied Plaintiff's Motion to Enter  
7 Evidence related to this material on October 6, 2010 (#56).  
8 Plaintiff's request that this Court enter the documents into  
9 evidence nunc pro tunc will therefore be considered as an appeal  
10 from Magistrate Judge Johnston's ruling.

11 At the hearing on October 6, 2010, Magistrate Judge Johnston  
12 indicated that Plaintiff's motion to enter the documents into  
13 evidence is premature and that the evidence must be authenticated by  
14 witnesses at trial. We have reconsidered Magistrate Johnston's  
15 ruling and find that it was proper and appropriate. Plaintiff  
16 should appropriately wait until trial to seek to admit this  
17 evidence. We note that some of the documents, if they are relevant  
18 and permitted by the pretrial order, may be admissible through an  
19 affidavit and others if not pursuant to Federal Rule of Evidence  
20 902(11).

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22 **IT IS, THEREFORE, HEREBY ORDERED** that Plaintiff's Motion (#78)  
23 to Retroactively file Document is **DENIED** without prejudice.

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25 DATED: June 8, 2011.

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UNITED STATES DISTRICT JUDGE